IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 552 of 2002

Baburao Dagadappa Kashid ... Appellant

V/s

Kashinath Sidhalingappa Kalyani ..Respondent

Shri P.R.Arjunwadkar for Appellant

None present for the Respondent

CORAM:S.R.SATHE,J.

DATED:20th June 2005

P.C.:-

1. Heard the Advocate for Appellant.

2. Perused the judgment of the trial Court as well as the appellate court.

3. The case of the plaintiff has been negatived by the trial Court holding that the plaintiff has failed to prove that there was any oral agreement to sell and payment of Rs.20,000/- as consideration of the said agreement.

4. It is tried to be argued before me that the amount

of Rs.20,000/- was claimed on the basis of signature that was put in Khata book. However, the trial Court has rightly observed that the plaintiff has failed to prove the alleged transaction and even payment of Rs.20,000/- as consideration. When such is the position the plaintiff is not entitled for refund of the said amount. He has even failed to prove that the amount of Rs.20,000/- was towards consideration. It is needless to say that the plaintiff must stand or fall on his own pleadings. The first Appellate Court has also rightly held that even if the signature at the foot of account is proved that by itself is not sufficient to hold that amount of Rs.20,000/- was paid towards consideration of the alleged transaction.

5. The findings of facts recorded by both the courts below appear to be legal and correct and there is no perversity in the said finding. There is no substantial question of law involved in this matter.

6. Hence the appeal is dismissed in limine.

(S.R.SATHE,J.)